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Testimony of the  
**CONSUMER SPECIALTY PRODUCTS ASSOCIATION**  
*concerning*

**SENATE BILL 421 (SENATOR BIEDA, ET AL.)**

*"A bill to prohibit the sale of engine coolant in this state that does not contain a bittering agent; to require certain record keeping; and to provide for penalties."  
submitted to the*

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT  
STATE OF MICHIGAN  
SEPTEMBER 27, 2012**

Submitted by: Sean Moore, Director, State Affairs – East Region

Chairman Kowall and distinguished members of the Senate Committee on Economic Development, the Consumer Specialty Products Association (CSPA) wishes to submit the following testimony concerning Senate Bill 421 and suggesting simple amendments to address our concerns. CSPA supports the intent of the legislation – to require an aversive agent be added to antifreeze sold in the state of Michigan – however, the bill requires two minor changes to prevent it from deviating from sixteen similar state laws.

CSPA is the premier trade association representing the interests of some 230 companies engaged in the manufacture, formulation, distribution and sale of \$80 billion annually in the U.S. of hundreds of familiar consumer products that help household and institutional customers create cleaner and healthier environments. Our products include disinfectants that kill germs in homes, hospitals and restaurants; candles, and fragrances and air fresheners that eliminate odors; pest management products for home, garden and pets; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day. Through its product stewardship program, Product Care®, and scientific and business-to-business endeavors, CSPA provides its members a platform to effectively address issues regarding the health, safety, sustainability and environmental impacts of their products. For more information, please visit [www.cspa.org](http://www.cspa.org).

CSPA and the manufacturers of antifreeze care deeply about the safety of antifreeze consumers and animals. The language of SB 421 is the result of a collaborative effort between the Humane Society of the United States and CSPA and closely matches laws that have been adopted in sixteen other states. We appreciate Senator Bieda's drive to pass legislation that accomplishes the objectives of all parties, and we urge this committee to adopt our proposed amendment and then recommend this bill for passage.

**New Effective Date Needed**

Senate Bill 421 was introduced in June, 2011 and was drafted to take effect in January, 2012. Clearly, we are now beyond the effective date originally prescribed in the bill. CSPA recommends Section 3 be modified so that the law will apply to antifreeze manufactured after January 1, 2013.

It is exceedingly important to our industry that Senate Bill 421 does not apply retroactively to July 1, 2012. The future effective date of January 1, 2013 proposed by CSPA will prevent unnecessary and costly recalls and guarantee manufacturers have adequate time to manage their supply chains to ensure a sufficient supply of compliant antifreeze can be distributed to Michigan.

#### **Denatonium Benzoate Should Be Stipulated as the Only Aversive Agent**

CSPA requests Section 3(b) be amended to allow for only denatonium benzoate (DB) as the aversive agent. Our companies have spent more than 20-years researching alternatives to DB for bittering antifreeze and no alternatives have been found to be acceptable. Denatonium benzoate is the only aversive agent that effectively bitters the product, does not impact engine performance, and remains bitter throughout transport. To allow for alternative aversive agents, that might be as bitter, could create the potential for problems with the performance of radiators in Michigan. *All other states that have passed this mandate stipulate DB, and DB only, and the industry supports maintaining this uniform standard.*

To provide for a future effective date, and to stipulate denatonium benzoate as the sole aversive agent, CSPA suggests Section 3 be amended in the following way:

Sec. 3. On or after January 1, 2012 ~~2013~~, a person shall not sell engine coolant in this state that is manufactured on or after January 1, 2012 ~~2013~~, if the engine coolant has all of the following characteristics:

(a) Contains more than 10% ethylene glycol.

(b) Does not contain either of the following:

(i) ~~Denatonium benzoate in a concentration of 30 to 50 parts per million.~~

(ii) ~~A bittering agent that meets or exceeds the aversion of denatonium benzoate in a concentration of 30 to 50 parts per million.~~

#### **Senate Bill 421 Provides Appropriate Assignment of Liability**

Importantly, in addition to helping protect animals and consumers, this legislation provides necessary assignment of liability for the manufacturers of antifreeze, who do not produce denatonium benzoate, the aversive agent that would be required in their products. The antifreeze industry is very comfortable with the environmental impacts of its product, but our companies do not manufacture DB and have limited knowledge on its chemical profile and breakdown in the environment. As such, this legislation separates liability leaving the antifreeze manufacturer with responsibility for antifreeze and the DB manufacturer liable for its product. It is a matter of fundamental fairness and equity that this legislation provides designated assignment of liability in light of this manufacturing situation.

The requirements and provisions of Senate Bill 421 – as proposed to be amended – are absolutely essential to accomplishing the goals of this legislation and ensuring that Michigan has an adequate and compliant antifreeze supply. CSPA has concerns that amendments, beyond those proposed in the text above, could defeat the goals of the bill and undermine the broad support that it currently has.

### **Education Is Also Important and an Effective Deterrent**

CSPA and antifreeze producers would also like to note that including an aversive agent in antifreeze will not create an exposure-proof product. CSPA and the antifreeze industry continue to believe the most effective way to protect children and animals from accidental exposure to ethylene glycol antifreeze is to properly use, store and dispose of the product. CSPA believes that the use of child-resistant enclosures in coordination with public education and outreach promoting the safe use and storage of antifreeze is the most successful way to protect consumers. To help achieve this goal, for more than a decade, our members have actively supported the American Association of Poison Control Centers (AAPCC), in a series of Public Service Announcements (PSAs) entitled, "Take Care: Car Fluids, Children, and Pets." These public service announcements seek to educate consumers about the proper use and storage of antifreeze and other automotive fluids.

These PSAs have received significant airtime and have been viewed and heard over 320 million times. This is a major achievement in providing accurate and useful information to consumers. These PSA's are effective in preventing animal and human exposures to antifreeze and are just one example of how the antifreeze industry is being proactive to protect its consumers.

### **Child-resistant Closures Are Also Effective**

The producers of antifreeze have also taken steps to reduce the risks of accidental exposure through the use of child-resistant closures. All antifreeze products sold to consumers are equipped with child-resistant closures and provide prominent label warnings about proper use storage and disposal of the product (*see* 16 CFR § 1700.14(a)(11) *and* 16 CFR § 1500.14(b)(2)). In addition, most manufacturers adhere to a voluntary industry policy to use foil safety seals on consumer product containers. The AAPCC concluded that child-resistant closures have been extremely effective in preventing accidental exposures to consumer products.

It is also important to note that there have been very few serious accidental human exposures to antifreeze. In fact, AAPCC reported that in 2010, the most recent year for which data is available, there were a total of only seven deaths in the United States from ingesting antifreeze. Significantly, five of these seven deaths were determined to have been caused by intentional abuse. Additionally, the total number of exposures to antifreeze amounted to less than one-quarter of one percent, or 0.226%, of the total exposure-related calls received by poison control centers throughout the United States during calendar year 2010.

### **Conclusion**

CSPA and the antifreeze industry appreciate this opportunity to present our position on this important issue. As you can see, the antifreeze industry has been – and continues to be – proactive in protecting consumers and animals from accidental exposure to ethylene glycol based antifreeze.

CSPA respectfully urges the Committee on Economic Development to amend Senate Bill 421, as proposed, to contain a reasonable effective date and specify denatonium benzoate as the sole aversive agent. CSPA would then be happy to lend its voice in support of this important and carefully negotiated legislation, which would conform with laws adopted by sixteen other states.

I apologize that I am unable to appear in-person to present this testimony, given the prompt scheduling of the public hearing, but would welcome any questions or discussion of CSPA's testimony or our proposed amendments. I can be reached directly at 202-833-7308, or via email at [smoore@cspa.org](mailto:smoore@cspa.org).

